



Virginia
Regulatory
Town Hall

Proposed Regulation Agency Background Document

Agency Name:	Child Day-Care Council
VAC Chapter Number:	22 VAC 15-10-10 et seq.
Regulation Title:	Public Participation Guidelines
Action Title:	Amend
Date:	January 13, 2000

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

Summary

Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

This regulation describes the way the Child Day-Care Council will obtain public input when developing, revising or repealing a regulation. The regulation covers the following topics: petition from interested parties, solicitation of input, public hearings, and withdrawal of regulations. The proposed regulation deletes the requirement to publish the Notice of Comment Period in a newspaper.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

Sections 63.1-202 and 63.1-202.1 of the Code of Virginia give the Child Day-Care Council authority to promulgate regulations for child day centers. Section 9-6.14:7.1 of the Code of Virginia requires each agency to have public participation guidelines for “soliciting the input of interested parties in the formation and development of its regulations.” These guidelines shall “set out any method for the identification and notification of interested parties, and any specific means of seeking input from interested persons or groups...the guidelines shall set out a general policy for the use of standing or ad hoc advisory panels and consultation with groups and individuals registering interest in working with the agency.” The proposed public participation guidelines fulfill the above mentioned code mandate. The web site address for the Code of Virginia is <http://leg1.state.va.us/000/src.htm>. The Office of the Attorney General has certified that the Child Day-Care Council has the statutory authority to promulgate this regulation and that it comports with applicable state law.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

The purpose of the public participation guidelines is to establish written procedures to solicit input from “interested parties” prior to formation and drafting of the regulations and during the formation, promulgation and final adoption process of regulations. The Administrative Process Act requires these guidelines to be effective before other regulations can be adopted. Thus these guidelines allow the Child Day-Care Council to carry out its statutory responsibility to promulgate regulations for child day centers. The child day center regulations are designed to ensure the safety and welfare of children under the care of licensed centers. The goals of this revision of the public participation guidelines are to (i) respond to a statutory change and (ii) allow flexibility where feasible.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.

This proposed regulation addresses methods of advertising the Notice of Comment Period. Specifically, the proposed regulation deletes 22 VAC 15-10-50 G 2, which requires publication of the Notice of Comment Period in a newspaper of general circulation published at the state capitol and such other newspapers as may deem appropriate. The other changes to the regulation are editorial to improve clarity.

Issues

Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

The public participation guidelines benefit the public by letting individuals know that they can be involved in the promulgation of the Child Day-Care Council's regulations. These guidelines also benefit the Commonwealth by allowing the Council to fulfill its state mandate to promulgate child day center regulations. Center regulations promulgated according to the public participation guidelines benefit: 1) the Department of Social Services by providing standards that can be used to monitor licensed centers and 2) families by establishing a level of safety at licensed centers. The Commonwealth will also benefit by deleting the requirement to publish the Notice of Comment Period in a newspaper since the intent of this requirement can be accomplished in more cost effective ways. There is no disadvantage to the public or the Commonwealth in having public participation guidelines. No longer requiring the publication of the Notice of Comment Period in a newspaper could be a disadvantage to the public but other more cost effective methods such as press releases, use of the department's web page, etc. may be used to notify the public.

Fiscal Impact

Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.

- (a) There is no projected cost to the state to implement this regulation since it is proposed that the requirement to publish the Notice of Comment Period in a newspaper be deleted.
- (b) There is no projected cost to localities.
- (c) Individuals, public and private organizations, businesses and governmental bodies with an interest in child day centers licensed by the Department of Social Services and for which regulations are required will be affected by this regulation.
- (d) On March 1, 2000 there were 2,483 licensed child day centers in Virginia.
- (e) There is no projected cost for the individuals, businesses and other entities affected by this regulation.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.

The proposed regulation deletes 22 VAC 15-10-50 G 2, which requires publication of the Notice of Comment Period in a newspaper of general circulation published at the state capitol and such other newspapers as may deem appropriate. House Bill 1473 (1995) eliminated the Administrative Process Act Requirement that regulatory notices be published in a “newspaper of general circulation published in the Capitol...” This change should be made to the public participation guidelines since publication of comment periods in newspapers is no longer a statutory requirement and there are other methods to notify individuals of comment periods in more cost effective ways. The agency could fulfill the intent by means such as notifying appropriate entities through press releases, use of the department's web page, etc. Overall, this change allows flexibility to use more cost effective methods for notifying individuals of comment periods.

Alternatives

Please describe the specific alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

Because the law currently requires public participation guidelines by each promulgating agency, there are no other alternatives. The Council held a 30 day public comment period on the review of the public participation guidelines and another 30 day public comment period on the Notice of Intended Regulatory Action to revise the public participation guidelines. Notifications of these comment periods were published in The Virginia Register and sent to licensed child day centers and individuals on the Council’s interested party list. Council also considered issues of its members which represent a wide variety of interests. Representation on the Council includes: two nonprofit child day center operators; three private for-profit child day center operators; one representative from each of the Departments of Social Services, Health, Education, Fire

Programs, and Housing and Community Development; one pediatric health professional; one child development specialist; one parent consumer; one legal professional; one representative of the Virginia Council for Private Education; and one representative each of a child day center offering a seasonal program emphasizing outdoor activities, a private child day center offering a half-day nursery school program, and a local governing body all of which operate programs required to be licensed. Additionally, there are advisory members representing the Virginia Employment Commission and the Departments of Labor and Industry, Environmental Quality and Aging.

Public Comment

Please summarize all public comment received during the NOIRA comment period and provide the agency response.

No public comments were received during the NOIRA comment period.

Clarity of the Regulation

Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

The Child Day-Care Council reviewed the regulation for clarity. Duplicate terms for the Child Day-Care Council and the Department of Social Services were deleted. Also, in several sections the “council” was substituted for the “department” since the council by law has this authority. No public comments were received that indicated the regulation was unclear or difficult to understand.

Periodic Review

Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.

The Child Day-Care Council will begin a review of this regulation three years from its effective date unless a legislative change or other circumstances require an earlier revision.

The goals of this regulation are: 1) to assure the public is provided an opportunity to comment on the formation and drafting of child day center regulations and during the formation, promulgation and final adoption process of regulations and 2) to comply with the Administrative Process Act when promulgating child day center regulations.

Family Impact Statement

Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The public participation guidelines should strengthen the authority and rights of parents since these guidelines allow parents to be added to a mailing list to receive notification of regulatory activity concerning the child day center regulations. With this notification, parents can submit comments to the Child Day-Care Council, which could result in changes to center regulations. These center regulations impact the education, nurturance and supervision of children. Additionally, the public participation guidelines could encourage responsibility for one's children by allowing parents to impact center regulations that help safeguard their children while in out of home care. The center regulations may also encourage self-sufficiency by helping families locate safe and appropriate child care.

The public participation guidelines have no intended impact on marital commitment. If there should be any unintended impact, it should be positive in that parents could influence center regulations that may positively affect their children's welfare. This could result in less strain on the marital relationship. The public participation guidelines should not have an impact on disposable family income.

In summary, the public participation guidelines are pro-family and strengthen the rights of parents.